

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	
)	CC Docket No. 94-129
Policies and Rules Concerning)	
Unauthorized Changes of Consumers)	
Long Distance Carriers)	

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.

Summary of Position

Qwest Communications International Inc. (“Qwest”)¹ supports the petition for reconsideration (“PFR”) filed by Sprint Corporation (“Sprint”).² We also support, in part, the PFR filed by AT&T Corp. (AT&T).³ In its PFR, Sprint asks the Federal Communications Commission (“Commission” or “FCC”) to reconsider its decision regarding the reporting requirements currently reflected in 47 C.F.R. Section 64.1180(b)(4) and (5).⁴ Qwest agrees with Sprint that the current rules have a substantial potential to result in misleading information with respect to the actual number of slamming complaints associated with carrier behavior. For that reason, we support reconsideration.

¹ Qwest’s business operations include local exchange and interexchange businesses. The comments here represent both interests.

² Sprint PFR filed Apr. 2, 2001.

³ AT&T PFR filed Apr. 2, 2001.

⁴ Sprint PFR at 1. Those rules reflect the Commission’s decisions regarding the reporting requirement as articulated in the *Third Report and Order*, 15 FCC Rcd. 15996 (2000) (“*Third Report*”), as clarified by *Order*, FCC 01-67, rel. Feb. 22, 2001.

In its PFR, AT&T asks the Commission to eliminate a requirement imposed in the third party verification (“TPV”) context (*i.e.*, that the names of the affected carriers be identified by the customer) that does not exist (although the Commission appears to believe it did) in the Letter of Agency (“LOA”) rules. Because it appears that the requirement itself was borne from a mistaken assumption, we support Commission reconsideration of the requirement.

Rationale for Position Supported by Qwest

With respect to the Sprint PFR, Qwest (as the local exchange carrier (“LEC”) U S WEST) has advised the Commission on more than one occasion that the “tracking” associated with LEC activities is not terribly refined with respect to interexchange carrier (“IXC”) slamming.⁵ As Sprint acknowledges, the circumstances associated with this lack of precision are not associated with nefarious intentions,⁶ but rather with expediency – and the desire not to negatively influence the LEC-customer relationship as a result of some nasty IXC-subscriber relationship problems.⁷

LECs (at least as reflected by the prior U S WEST conduct) engage primarily in “peg counting,” identifying any assertion of slamming behavior as a “peg” count. The LEC does not press the customer to ascertain the *bona fides* of the allegations or seek to establish the facts of the IXC-subscriber relationship. Simply put, if the party calling into the business office claims

⁵ *See, e.g.*, Comments of U S WEST Communications, Inc., CC Docket No. 94-129, filed Mar. 18, 1999 at 28-29; Reply Comments of U S WEST, Inc., CC Docket No. 94-129, filed Sep. 29, 1997 at 10-12 and n.28.

⁶ Sprint PFR at 3.

⁷ *Id.* at 4 (“The customer service representative of the LEC may have little information available and certainly no incentive to question the accuracy of the slamming allegation of the customer.”). WorldCom, Inc. (“WorldCom”) in its Apr. 2, 2001 PFR raises issues similar to Sprint’s. However, Qwest cannot support WorldCom’s PFR because it ascribes -- without proof -- anticompetitive motives to the LECs which Qwest does not believe explain the current situation or its continued practice. WorldCom PFR at 4-6.

that a slam occurred, the call is logged as a “slamming complaint” (or “allegation” really).⁸ Moreover, as Sprint asserts, the “sins” of a slamming reseller are visited upon the facilities-based carrier in terms of tracking the allegations.⁹

While the Commission might, at first, be inclined to try to tinker with the current reporting requirement, for example to eliminate LEC reporting on IXC conduct but still require IXC reporting, the fact that the input from the LEC to the IXC is not precise means that any requirement that the IXC incorporate that information even in its own report will result in a corrupted report. The “information” forms no basis for the Commission to either assess the integrity of IXC processes or to act in a manner that is punitive in hopes of “correcting” IXC conduct.¹⁰

If the Commission is not inclined to eliminate its reporting requirements in their entirety, it should (a) require only that IXCs report on their own “slams” (and LECs on their “own” slams); and (b) that the Reporting Form be reformed to reflect the language of the *Third Report*, so that only actual slams (as opposed to “allegations” of slams) are reported.¹¹

Qwest also supports AT&T’s PFR with respect to the requirement the Commission has engrafted on the TPV process whereby TPV providers, acting on behalf of carriers, are required to ask individuals, and secure a response, regarding “the names of the carriers affected by the

⁸ As Sprint points out, the Commission has acknowledged that not all slamming “allegations” are “slamming” in fact. Sprint PFR at 3-4 (referencing the *Third Report*, 15 FCC Rcd. at 16023 ¶ 56).

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 4-5 (noting that the Commission’s intention is to publish the information in expectation that such will act as some kind of reputational compulsion for an IXC to clean up its act). See WorldCom PFR at 7-8.

¹¹ Sprint PFR at 5.

change.”¹² Contrary to the Commission’s assumption that such requirement was incorporated in the LOA rules, it is not. And, it came as a surprise to Qwest – as we parsed the Commission’s rules -- to find this additional requirement. The Commission should eliminate the requirement, or at a minimum hold that compliance with the rule is met when the question is asked. The individual need not know or provide the answer.

Conclusion

For the above reasons, the Commission should grant the relief requested by Sprint with respect to the current reporting requirements. Also, in supporting AT&T in part, Qwest recommends that the Commission eliminate its requirement that the TPV process/interaction include a query to the consumer regarding the names of the carriers affected by the upcoming carrier change.

Respectfully submitted,

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April 30, 2001

¹² AT&T PFR at 4-7.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused 1) the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be filed electronically with the FCC by using its Electronic Comment Filing System, 2) a copy of the **COMMENTS** to be served, via hand delivery, upon the entity (marked with an asterisk) listed on the attached service list, and 3) a copy of the **COMMENTS** to be served, via first class United States mail, postage prepaid, upon all other persons listed on the attached service list.

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April 30, 2001

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